

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRANDON LESTER,)
)
Plaintiff,)
)
v.) Case No.
) 7:15-cv-00665-GEC
SMC TRANSPORT, LLC,)
)
ISRAEL MARTINEX, JR.,)
)
and)
)
Salinas EXPRESS, LLC,)
)
Defendants.)

DEPOSITION OF ARTURO GUTIERREZ

Friday, September 23, 2016
9:30 a.m.



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Reported by: Roxane M. Ray, RPR

1 The deposition of ARTURO GUTIERREZ was
2 taken at the Zapata County Jail, Zapata, TX, on
3 Friday, September 23, 2016, in the presence of
4 counsel for the parties.

5 All formalities as to caption,
6 certificate and notice of filing were waived. It was
7 agreed that Roxane M. Ray, RPR, Notary Public in and
8 for the Commonwealth of Virginia, at Large, would
9 take said deposition in machine shorthand, transcribe
10 the same to typewriting by means of computer-aided
11 transcription and sign the name of the witness
12 hereto.

13 Said deposition was taken subject alone
14 to objections that are required to be made by the
15 Federal Rules of Civil Procedure at the time the
16 deposition is taken. All other objections were
17 reserved until the trial.

18

19

20

ART GUTIERREZ

21 was called as a witness, and after having first been
22 duly sworn to tell the truth, the whole truth and
23 nothing but the truth, was examined and testified as
24 follows:

1 EXAMINATION
2

3 BY MR. FRANKL:

4 Q Can you state your full name for the
5 record, please?

6 A Arturo Gutierrez.

7 Q Mr. Gutierrez, can we call you Art?

8 A Yes, you can.

9 Q My name is Dan Frankl and I represent
10 Salinas Express with regard to an accident that took
11 place on October the 26th of 2015.

12 A Yes.

13 Q I'm going ask you some questions about
14 your arriving, getting to the accident scene, and
15 what happened at the accident scene, and a little bit
16 of background information.17 If you don't hear a question or
18 understand a question, ask me to repeat it or
19 rephrase it and I'll be glad to do so.

20 A Okay.

21 MR. FRANKL: As far as for the record,
22 all objections except to the form of the
23 question will be reserved.

24

1 Rudy Salinas?

2 A Yes.

3 Q Are you related to him?

4 A Yes.

5 Q How are you related?

6 A First cousin.

7 Q So you're also the first cousin of Roy

8 Salinas?

9 A Yes. Mom and dad are brothers.

10 Q Your mother and his father are --

11 A Yes, are brothers.

12 Q -- brother and sister?

13 A Yes.

14 Q Do you know Israel Martinez?

15 A Yes.

16 Q Are you related to --

17 A No.

18 Q How do you know Mr. Martinez?

19 A Since I was going on the trip.

20 Q Did you know him before the trip?

21 A Yes, I've seen him. He lives here in

22 Zapata.

23 Q But didn't have any interaction with

24 him?

1 A No.

2 Q Do you know Sergio Cuellar?

3 A I've heard of him and I think I saw him
4 once maybe in the summer of '86. We went fishing
5 together under a bridge, the Zapata Bridge.

6 Q Have you ever done any work for SMC
7 Transport?

8 A No.

9 Q Have you ever done any work for Salinas
10 Express?

11 A Yes.

12 Q All right. What work have you done for
13 Salinas?

14 A I recall going to --

15 Q Before the accident --

16 A Before the accident --

17 Q -- did you ever work for Salinas
18 Express?

19 A Yes, I did.

20 Q And when did you work for Salinas
21 Express?

22 A Pretty close dates. 2004, maybe on
23 May, and maybe on 2007 I rebuilt a head on one of the
24 trucks, 525 Caterpillar engine.

1 Q So what is your -- what was your
2 occupation? What were you trained to do?

3 A I'm a master tech mechanic or diesel
4 mechanic.

5 Q So in 2004 and 2007 you did some
6 mechanic work for Salinas Express?

7 A Yes.

8 Q And in 2015 were you employed by
9 Salinas Express?

10 A No.

11 Q And you were living with your sister
12 outside of Houston?

13 A Yes.

14 Q Were you employed at all at that time?

15 A No.

16 Q What were you up there doing?

17 A Looking for work.

18 Q And did Rudy Salinas ever call you and
19 ask you to go on this trip?

20 A Yes. He asked me to help them out.

21 Q I'm saying did Rudy do it or did Roy do
22 it? Do you remember who called you and asked you to
23 help them out?

24 A I think it was both.

1 two trucks together?

2 A Same place.

3 Q Same place?

4 A Yes.

5 Q My question is: If you hooked the two
6 trucks together at that location, do you know how the
7 two trucks that were back to back, how it got all the
8 way to the entrance ramp?

9 A No. I went to the rest room.

10 MR. FRANKL: I don't have any further
11 questions. Thank you.

12

13 EXAMINATION

14

15 BY MS. WHITE:

16 Q I just have a quick follow-up.

17 You don't know what conversation that
18 Roy may have had with Sergio Cuellar?

19 A No.

20 Q And you don't know what conversations
21 that Israel Martinez may have had with Sergio
22 Cuellar?

23 A No.

24 MR. DUNN: Let me object. You're

1 assuming that there was conversations
2 between them. So the foundation has not
3 been laid.

4

5 BY MS. WHITE:

Q With that, you can answer. You don't
know what conversation Israel Martinez --

A I don't know because --

9 MS. WHITE: That's fine.

10 MR. FRANKL: Last thing, you have the
11 right --

12 MR. DUNN: Wait a minute.

13

14 EXAMINATION

15

16 MR. DUNN:

17 Q Mr. Gutierrez, for this trip to
18 Virginia, you were not hired by SMC Transport, were
19 you?

20

21 Q For this trip to Virginia, you had no
22 communication with anybody from SMC Transport, did
23 you?

24

1 MR. DUNN: Thank you very much.

2 MR. FRANKL: Mr. Gutierrez, you have
3 the right when the court reporter types up
4 this transcript to read it and make sure she
5 took down your testimony correctly or you can
6 waive that right and let the court reporter
7 sign your name for you. It's up to you.

8 THE WITNESS: What do you mean "waive"?

9 MR. FRANKL: Basically say I'll allow
10 her to sign it for you. Answer the question
11 about whether you want to review this
12 deposition --

13 THE WITNESS: If I tell you to review
14 it they have to come back again.

15 MR. FRANKL: No. We'll send it to you
16 in the mail and then you'll read it and if you
17 have any corrections you'll make those
18 recollections or you can say no, I'll let
19 you --

20 THE WITNESS: Am I doing right right
21 now?

22 MR. DUNN: It's your choice. If you
23 trust that the court reporter typed it up
24 correctly and you think that it's going to be